

9/21/77

Folder Citation: Collection: Office of Staff Secretary; Series: Presidential Files; Folder: 9/21/77;
Container 42

To See Complete Finding Aid:

http://www.jimmycarterlibrary.gov/library/findingaids/Staff_Secretary.pdf

THE PRESIDENT'S SCHEDULE

Wednesday - September 21, 1977

7:15 Dr. Zbigniew Brzezinski - The Oval Office.

7:45 Mr. Frank Moore - The Oval Office.

8:00 Breakfast with Republican Senate Group.
(60 min.) (Mr. Frank Moore) - The Roosevelt Room.

9:30 Meeting with Congressional Delegation/
(20 min.) SST-Concorde. (Mr. Frank Moore).
The Cabinet Room.

10:00 Mr. Jody Powell - The Oval Office.

10:30 His Excellency Ismail Fahmy, Deputy Prime
(90 min.) Minister and Minister of Foreign Affairs
of the Arab Republic of Egypt. (Dr. Zbigniew
Brzezinski) - The Oval Office and the Cabinet
Room.

12:15 Lunch with Senator Edward M. Kennedy.
The Oval Office.

3:00 News Conference. (Mr. Jody Powell).
(30 min.) Room 450, EOB.

3:45 Drop-By Panama Canal Briefing. (Mr. Hamilton
(15 min.) Jordan) - The State Dining Room.

THE WHITE HOUSE
WASHINGTON

Goldw - Fring should reprise

A300 Airbus

OKa City - bombarded by
by supersonics

O'Hare would welcome

Best ^{U.S.} competition one
losing it even when
loaded -

Electrostatic Copy Made
for Preservation Purposes

Electrostatic Copy Made
for Preservation Purposes

9/26/77

SST

THE WHITE HOUSE
WASHINGTON

PRO

Sam -

Duller & where wanted
Barre

Airplane sales

Noise / ozone / fuel

116 db level @ Duller

Early 45/39 for plane

Now 55/25 for "

6 House votes won by SST

Jack

Approaches not over town (SST,
Future engines better

Concorde & Dallas / Houston

100,000's flights Mach 2-3
over us

THE WHITE HOUSE
WASHINGTON

Fahmy
9/21/77

- ① Withdrawal -
- ② Homeland -
- ③ Peace -
- ④ Meet w PLO -

Marshall's w/out opinion

Geneva → Home → Geneva

PLO → 242 → Geneva

Invite - decline - ok

242 modification

THE WHITE HOUSE
WASHINGTON

September 21, 1977

Landon Butler

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: DON COX AND ALEX WALSH

THE WHITE HOUSE
WASHINGTON

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION
FYI

<input type="checkbox"/>	MONDALE
<input type="checkbox"/>	COSTANZA
<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	LIPSHUTZ
<input type="checkbox"/>	MOORE
<input type="checkbox"/>	POWELL
<input type="checkbox"/>	WATSON
<input type="checkbox"/>	LANCE
<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input checked="" type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

MEMORANDUM

THE PRESIDENT HAS SEEN.

Landon

THE WHITE HOUSE

WASHINGTON

MEMORANDUM TO THE PRESIDENT

FROM: LONDON BUTLER *LB*
DATE: SEPTEMBER 20, 1977
SUBJECT: DON COX AND ALEX WALSH

In response to your inquiries about Don Cox and Alex Walsh, I can report the following:

Don Cox

In January, Don Cox expressed his interest in a job on the White House Staff. He also expressed interest in the General Counsel's post in several departments. His letter and resume were forwarded to the Presidential Personnel Office where they were handled routinely. Although Cox helped briefly during the campaign, he was not supported by our political friends in Kentucky.

help him

Jim Gammill is meeting with Cox today to discuss job possibilities. Jim will follow-up personally.

Alex Walsh

After the transition, Walsh was given a 120-day appointment to the State Department's Bureau of Educational and Cultural Affairs, where he performed satisfactorily and was offered a permanent post when his temporary appointment expired. Walsh preferred to return to Rhode Island to practice law, but asked that he be retained from time to time on part-time assignments for the Department. When I asked about his status, I was told that such assignments are being phased out and it is unlikely that he will be called upon again.

ok

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

9-13-77

To London Butler

What has been/can be
done re a job for
Don Cox of Ky?

J.C.

THE WHITE HOUSE
WASHINGTON

9-14-77

To Landon

a) Is Alex Walsh a
State Dept "Consultant" on
Friendship Force?

b) If so, why?

J.C.

THE WHITE HOUSE
WASHINGTON

9

EYES ONLY FOR THE PRESIDENT
FROM CEA

Electrostatic Copy Made
for Preservation Purposes

THE PRESIDENT HAS SEEN.
THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

September 21, 1977

MEMORANDUM FOR THE PRESIDENT

From: Charlie Schultze *CLS*

Subject: New Orders for Durable Goods in August

The Census Bureau will release tomorrow (September 22) at 2:00 pm its estimate of new orders for durable goods. The news is good -- new orders rose by 3.4 percent last month.

These order figures, which are a leading indicator of industrial activity, have been disquietingly weak in recent months. The August upturn suggests that the improved pace of retail sales that began in July may now be having a positive influence on business ordering. If so, a pickup in production and employment may soon be underway.

New orders for nondefense capital goods (which we watch as an indication indicator future trends in business capital investment) changed little in August. Excluding commercial aircraft, where there was a large cancellation, those orders went up 3.7 percent last month. However, we still do not see the strength in these orders that we need to assure a really solid growth of business fixed investment.

3:45 PM

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

September 20, 1977

STATE BRIEFINGS ON PANAMA CANAL TREATIES

Wednesday, September 21, 1977

3:45 P.M. (15 minutes)

The State Dining Room

From: Hamilton Jordan *H.J.*

I. PURPOSE

To motivate a grass-roots effort among public opinion leaders to support a treaty ratification.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: This is the fourth in a series of briefings for state leaders. This briefing is for Tennessee and North Carolina.
- B. Participants: Community leaders, business persons, and opinion leaders from across each state. Several journalists are among the invitees. Sen. Baker and Sen. Sasser from Tennessee and Sen. Morgan from North Carolina helped us compile the invitation list. In attendance will be Senator Morgan and Senator Wendell Anderson.
- C. Press Plan: No press coverage.

III. TALKING POINTS

The same presentation you have given at the previous briefings will be most appropriate here.

attachments:

Agenda
List of Invitees

Electrostatic Copy Made
for Preservation Purposes

AGENDA

WEDNESDAY, SEPTEMBER 21, 1977

2:00 P.M.	Welcome	Jack Watson Assistant to the President for Intergovernmental Affairs
2:05 P.M.	Global Perspective	Dr. Zbigniew Brzezinski Assistant to the President for National Security
2:25 P.M.	Explanation of Treaties	Ambassador Sol Linowitz
3:00 P.M.	Break	
3:25 P.M.	National Security	Clifford Alexander Secretary of the Army and General Bernard Rogers Chief of Staff of Army
3:45 P.M.	Remarks	The President

INVITEES FROM TENNESSEE

Governor Ray Blanton

Rev. and Mrs. Bazzel Mull
Knoxville

Mr. Eldon Leslie, President
Tennessee Chamber of Commerce
Cookeville

Mr. Richard Worden
THE CLARKSVILLE LEAF CHRONICLE

Morris Cunningham
MEMPHIS COMMERCIAL APPEAL

John M. Jones, Sr.
GREENEVILLE DAILY SUN

Carl Jones
JOHNSON CITY PRESS CHRONICLE

Lt. Gov. John Wilder

Frank Gorrell
Nashville

Dr. Cecil C. Humphreys
Memphis

Rev. James Smith
Memphis

Ms. Maxine Smith
President, NAACP
Memphis

Mayor Wyeth Chandler
Memphis

Katherine Turner
TEA
Nashville

William C. Weaver, Jr.
Nashville

J. D. Johnson
Burley Stabilization Corp.
Knoxville

R. Jack Fishman
MORRISTOWN CITIZEN'S TRIBUNE

J. A. Hadley
Hadley Construction
Humboldt

Billy Bob Carter
Chairman of the Board
CFW Construction Company, Inc.
Fayetteville

Charles B. Balch
Tennessee Electric Co-Op
Jefferson City

State Rep. Ted Ray Miller
Knoxville

Calvin Patrick
CWA
Johnson City

Matthew Lynch, President
Tenn. State Labor Council
Nashville

Bob Clement
Public Service Commissioner

Mayor Richard Fulton
Nashville

Kemmons Wilson
Chairman, Holiday Inns, Inc.
Memphis

Dr. Lloyd Elam, President
Medical College
Nashville

Dr. Andy Holt
President Emeritus
University of Tennessee
Knoxville

2-Tennessee

Dortch Oldham
Nashville

Brad Martin
Memphis

Mrs. G. M. Trammell, Jr. (Ruth)
Republican Women
Nashville

J. Burton Frierson
Dixie Yarns
Chattanooga

Bill Morris
Southern Supply Company
Jackson

Eugene Joyce
Joyce, Anderson & Meredith
Oak Ridge

Jodge Bill Beach
Clarksville

Herb Bingham
Tennessee Municipal League
Nashville

Rudi Scheidt
Hohenberg Brothers
Memphis

Sam Fleming
Third National Bank
Nashville

former Governor Winfield Dunn
Nashville

Dr. Frank Paschall
First Baptist Church
Nashville

Mrs. Frances Preston
BMI Music Industry
Nashville

Mr. Pat K. Wilson
First American National Bank
Nashville

Thad Cox, President
Bank of Knoxville

Bracy Campbell
NASHVILLE BANNER

Victor Johnson
President, Aladdin Industries
Nashville

H. D. McNeeley, President
Tenn. Eastman-Kodak
Kinsport

Judd Collins
WSM
Nashville

Maurey Griener
SMC-TV
Memphis

Thomas Hill
The Oak Ridger

Fred Gregg

Bill Farris
Democratic Party Chair
Memphis

INVITEES FROM NORTH CAROLINA

Billy Ray Cameron, Former Commander, North Carolina Veterans of Foreign Wars (Sanford)

Frank Daniels, Publisher, "The News and Observer" (Raleigh)

Robert Davis, President, Charlotte Black Caucus, and Principal, J. T. Williams Junior High School (Charlotte)

George Dednam, Dentist, Black Political Leader (Raleigh)

Monk Harrington, Manufacturer, State Senator (Lewiston)

Alton P. Wall, Acting Director, North Carolina Electric Membership Corporation (Raleigh)

Wilbur Hobby, President, North Carolina AFL-CIO (Raleigh)

Charles Hodson, Attorney, active in State and National American Legion Affairs (Chapel Hill)

Otto G. Stolz, Senior Vice President and General Counsel for Cannon Mills (Kannapolis)

Roddy Jones, Commercial Builder, Member of the Board of Trustees, Consolidated University of North Carolina (Raleigh)

Glenn Ketner, Attorney and Businessman (Salisbury)

Jack Minges, Pepsi Cola Bottler (Greenville)

Betty McCain, Housewife, Chairperson, North Carolina Democratic Party (Wilson)

Trent Ragland, Corporate Officer, Martin Marietta (Raleigh)

Ralph Simpson, Editor, Lexington Dispatch

Ralph Scales, President, Wake Forest University (Winston-Salem)

Rupert Tart, Businessman (Greenville)

David Whichard, Editor, "The Reflector" (Greenville)

Richard Wynn, Editor, "The Asheville Citizen" (Asheville)

Invitees from North Carolina (continued)

Ruth Mary Meyer, President, League of Women Voters (Durham)

Arthur Williamson, tobacco farmer (Chadbourn)

John McArthur, Jr., farmer (Wakulla)

Wallace Hyde (Asheville)

Liz Hair, County Commissioner (Charlotte)

R. W. (Bobby) Allen (Fayetteville)

Charles Winberry

Reverend Joy J. Johnson, President of State Baptist Convention and State Representative (Fairmont)

THE WHITE HOUSE
WASHINGTON
September 21, 1977

The Vice President
Stu Eizenstat
Hamilton Jordan

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

RE: WELLHEAD TAX

THE WHITE HOUSE
WASHINGTON

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION	FYI	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	MONDALE
<input type="checkbox"/>	<input type="checkbox"/>	COSTANZA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	<input checked="" type="checkbox"/>	JORDAN
<input type="checkbox"/>	<input type="checkbox"/>	LIPSHUTZ
<input type="checkbox"/>	<input type="checkbox"/>	MOORE
<input type="checkbox"/>	<input type="checkbox"/>	POWELL
<input type="checkbox"/>	<input type="checkbox"/>	WATSON
<input type="checkbox"/>	<input type="checkbox"/>	LANCE
<input type="checkbox"/>	<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

THE WHITE HOUSE

WASHINGTON

September 21, 1977

cc. Jorg.

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK MOORE *F.M.*

Senator Long has maneuvered the Committee out of voting on a Roth motion to strike the wellhead tax. Instead the Committee voted to consider ways in which tax revenues would be applied to meet energy needs. The Chairman is steering the Committee in the direction of the proposals we discussed with you this morning.

The Committee has adjourned for today and has scheduled its next meeting for Friday morning.

Larry Wordworth, Dan Tate and Chairman Long do not recommend your meeting with the Committee at this time. We should maintain a low profile. In order to forge the coalition we are seeking, we need Republican support. What might be perceived as pressure from the White House could cost us that support.

The wire services will probably report that the Committee while expressing opposition to the wellhead tax did not vote on it. Our position should be that while expressing opposition to the wellhead tax as passed by the House, the Committee did not reject the concept of the tax and chose to address first how potential tax revenues should be used to meet energy research, development and production needs.

On the Senate floor this morning, Senator Bartlett laid down his amendment calling for complete deregulation. Senator Metzenbaum introduced the Kennedy amendment as a substitute (\$1.40 gas) and refused to agree to a time limit. The Senator may decide to allow a vote around 4:00 p.m. this afternoon on Kennedy, but it is unlikely that Bartlett or any of the other gas pricing issues will be voted on before 6:00 p.m. Thursday.

Electrostatic Copy Made
for Preservation Purposes

12:15 PM

~~THE PRESIDENT AND CHIEF~~

THE WHITE HOUSE

WASHINGTON

September 20, 1977

LUNCH WITH SENATOR KENNEDY

Wednesday, September 21, 1977
12:15 p.m.
Oval Office

FROM: Frank Moore *FM*
Stu Eizenstat *Stu*

I. PURPOSE

To discuss the Administration's tax reform package and Senator Kennedy's own tax reform proposals. Senator Kennedy requested a meeting with you on tax reform, but he will probably also raise health and energy issues, as well as the foreign intelligence wiretapping bill.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

A. Background: Senator Kennedy has been a leader in the Senate on tax reform, and he has already announced proposals this year; at the time of their announcement, he said that they could serve as a guide to measure the Administration's tax reform package. Attached is a copy of a memorandum Stu prepared for you in July assessing the Senator's proposals.

Senator Kennedy, as Chairman of the Senate Subcommittee on Health, has been a leader in the health care area for many years. At the UAW convention this year, he urged you to submit a comprehensive health insurance plan as soon as possible.

**Electrostatic Copy Made
for Preservation Purposes**

The Senator has not yet been active in the Senate fight over the national energy plan (other than his amendment to the coal conversion part of the bill that would have restricted purchases of coal or uranium by oil companies), but he may be interested in trying to strengthen the utility rate modernization part of the plan.

Finally, the Senator is a co-sponsor of the Administration's foreign intelligence wiretapping bill, but he is concerned about the non-criminal standard currently in the bill.

B. Participants: Senator Kennedy

C. Press Plan: White House photo only.

III. STATUS OF TAX REFORM, HEALTH, ENERGY AND WIRE-TAPPING LEGISLATION

A. Tax Reform---The Senator is likely to raise the following major issues:

1. Partial integration. The Senator will oppose partial integration as being weighted in favor of upper income taxpayers and having little, if any, positive effect on capital formation. Treasury and CEA will recommend a form of partial integration which will cost \$2.5 billion at 1976 levels of income.

2. Inflation adjustment for capital gains. The Senator will oppose any inflation adjustment for determining capital gains. Treasury will recommend an inflation adjustment for property held for more than ten years. CEA and we will oppose any inflation adjustment for capital gains on the grounds that it would be unfair to the small savers and wage earners who will get no benefit from it and contrary to our simplification goal, lead to a "lock-in" for capital assets, and that it would be a major policy error (in light of our anti-inflation efforts) to introduce inflation indexing into the tax system.

3. Capital gains at death. The Senator will urge you to include a provision for capital gains at death in the program. Treasury, CEA, and we will all recommend the inclusion of this item in the program.

4. Expense account living. The Senator will urge a tough crackdown on expense account living. Treasury will not recommend elimination of the deduction for tickets for

theater and sporting events, golf fees, or first-class airfare and will recommend that the deduction for business meals be limited only to 50% of the cost of the meals. We will recommend elimination of the deduction for tickets and golf fees, limitation of the deduction for airfare to coach or economy class, and a flat dollar limitation on business meals.

5. Taxation of accumulated DISC profits. The Senator will urge that DISC be eliminated and the accumulated DISC profits, the tax on which has been deferred, be gradually returned to the income tax base. Treasury will recommend against taxing the accumulated DISC profits. We will recommend that they be taxed over a ten-year period because the DISC statute created a deferral not a permanent exemption from tax. (This item involves \$6 billion in tax revenues for the Treasury.)

6. Deferral of tax on the profits of foreign subsidiaries. The Senator will urge the Administration to eliminate deferral. Treasury opposes the elimination of deferral. CEA and we favor it.

7. Oil and gas. The Senator will favor tough provisions on oil and gas, probably including the elimination of IDC and percentage depletion. Treasury will recommend the inclusion of IDC in the minimum tax base for both individuals and corporations but will oppose any elimination of percentage depletion. CEA and we will support the recommendation on IDC but also favor the phase-out of percentage depletion (which under present law is available only to small producers and phased down to 15% in 1984) beginning in 1985.

8. ADR. The Senator will oppose the expansion of the ADR system of depreciation. No recommendation will be made to expand this form of depreciation.

9. Taxable bond option. The Senator will propose a 40% subsidy for a taxable bond option. Treasury, CEA, and we will make a similar recommendation to you.

10. Refundable, incremental ITC. The Senator will propose an incremental ITC which would be refundable regardless of income tax liability. No such recommendation will be made to you in the program. (We think an incremental ITC is basically a good idea but are skeptical about making ITC refundable.)

B. Health

1. Hospital cost containment. The Senator has been leading the effort to secure passage of a hospital cost containment bill; his subcommittee has reported to the Human Resources Committee a bill generally along the Administration's proposal. The cost containment bill was jointly referred to the Human Resources Committee and the Finance Committee; under the Senate's new rules, one bill must be reported jointly by both committees. Thus, Kennedy must now work with Long and Talmadge to get an acceptable bill to the Senate floor. You might say that you will be working hard to enlist the cooperation of Senators Long and Talmadge.

2. National health insurance. Senator Kennedy should be assured that planning for national health insurance is now strongly underway at HEW, with OMB, other agencies, and the White House participating fully. The Administration expects to develop a plan by early next year, and will work closely with Senator Kennedy. You might ask his views on the political viability of such key features of the Kennedy/Corman bill as: a) no role for private insurance companies; and b) no role for states.

C. Energy

1. Competition. You did not support the Senator's amendment (which was defeated) to limit oil company purchases of coal and uranium. The stated reason for Administration opposition was that it was not thought advisable to make major changes in the plan approved by the House and that further study of the need for anti-competitive measures in the energy industry would be needed. The national energy plan strongly supports actions to ensure competition in the energy field; the plan commits the Administration to study the need for oil company divestiture of coal and uranium companies, and a special office in the Department of Energy will be established to study competition.

2. Utility rate modernization. The Senate Energy Committee has eliminated most of the utility rate reforms proposed in the plan and approved by the House. While it does not seem possible at this point that all of the reforms in this area can be restored on the Senate floor, Senator Kennedy has recently indicated through his staff that he would be interested in helping to lead an effort to restore as many of the reforms as possible.

D. Foreign Intelligence Wiretap Bill

The Senate Judiciary Committee has not yet taken any action on the Administration's wiretap bill, but it is expected to meet next week on it. The remaining unresolved issue involves the failure of the bill to require probable cause of criminal conduct before a court can authorize a wiretap in this country for the purpose of securing foreign intelligence. Senator Kennedy feels strongly that this bill should include a criminal standard --- no foreign intelligence wiretap could be authorized unless the government could provide evidence that the wiretap subject is involved in criminal conduct. (However, the government need not proceed to prosecute the crime and often will not wish to do so for security reasons.) As you know, the Vice President was on record in the Senate, and continues to support, this general position.

The Attorney General recognizes that a compromise on this issue may be necessary to secure passage; he will soon be contacting the Senator on this point.

Panama. We have received information from some of Senator Kennedy's staff people that Kennedy is interested in helping on Panama and would be willing to travel and speak in support of the Treaty. This might or might not be helpful, but you should probably at least mention that you have been told he has been very helpful in support of the Treaty and that you appreciate that greatly.

General Comments. It would be appropriate at the outset to thank Senator Kennedy for his exceptional support of your Administration in virtually every field. He has one of the highest, if not the highest, record of support for your legislation in the U.S. Senate.

THE WHITE HOUSE
WASHINGTON

July 14, 1977

Stu
Good
summary
J

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT
BOB GINSBURG

Stu

SUBJECT: Assessment of Senator Kennedy's
Tax Reform Package (Prepared at your request)

This memorandum briefly assesses the components of Senator Kennedy's tax reform program.

1. Cut marginal tax rates from 70 to 50 at top and 14 to 10 at bottom. Nature of new rate structure will depend upon amount of revenue we can raise from closing preferences, net amount of revenue we are willing to lose on an overall basis, and the effect of progressivity. Kennedy's rate structure is preferable to that currently being proposed by Treasury in that Kennedy would cut 2/7 at top and 2/7 at bottom while Treasury would cut 2/7 at top but only 1/14 (from 14 to 13) at bottom.

2. Substitute \$200-250 general credit for present \$750 personal exemption. Treasury currently proposes a \$200 credit (plus \$15 from energy program). Unlike the personal exemption, a credit is worth proportionately more to a poor family than to a wealthy family. You and the Vice President have supported the substitution of a credit for the existing exemption.

However, substitution of a \$200 credit for the present \$750 exemption would have a differential impact depending upon the level of income: taxpayers below the 27% bracket ($200/750 = 27\%$) will benefit and those above will be worse off -- the break-even point for a \$200 credit under present tax rates is about \$14,000. (Credits also increase the existing tax advantages for large vs. small families below the break-even point and decrease the inter-family spread above the break-even point.) Accordingly, a \$200 credit would disadvantage a large part of the middle class.

One answer is to increase the size of the credit to, say, \$250; this would raise the break-even point to somewhere in the \$20,000-\$25,000 range. On the other hand, Joe Pechman argues that since we are changing tax rates anyway, we can achieve a better distributional result for the middle class through rate cuts and a \$1,000 exemption rather than through the credit -- he has prepared a memo showing that, at same revenue costs, he can get a 40% to 50% rate schedule using the \$1,000 exemption compared to 13% to 50% with a \$200 credit. *Sound good*

3. Make the new tax credit refundable. Very costly (probably \$2 billion or more). This would be a step toward a negative income tax and should be considered in connection with welfare reform. If we are to tie in with welfare reform, we may prefer to expand work incentives by enlarging the earned income credit instead of making the general credit refundable.

4. Repeal present preferential tax treatment for capital gains. ✓
We agree. This is in the Treasury program.

5. Tax capital gains on property passing at death or by gift. ✓
We agree. This is one of the most significant tax preferences, allowing large amounts of capital gains to be transferred from generation to generation without being subject to income tax, while capital gains made before death are. Also, if capital gains are to be treated as ordinary income, it is important that this preference be removed as well or else there will be tremendous "lock in" effects (incentive to hold on to securities to avoid tax) which adversely affect capital markets. This is a very large revenue item (about \$7 billion) and very important for the overall progressivity of our program. This is not in Treasury's current program but we understand it may be included in the revised program to be presented to you on Friday. It will be very difficult to pass this through Congress but a tax package without this item would not be as bold and comprehensive as the one you may want.

6. Repeal the present 15% minimum tax on preference income.
OK if we really eliminate the tax preference items which are hit by the minimum tax. If we do not or if some wealthy taxpayers could still avoid tax, we see no reason to remove this items.

7. Adopt a single rate schedule for all taxpayers. Would replace the existing four schedules for single persons, families, etc. and constitute a major step towards simplification. Pechman includes this in his Packages A and B. However, the effect would be to remove some of the tax advantage which families now have and would, therefore, cause major criticism. Pechman argues that the present system gives undue advantage to families with only one wage earner over single persons and families with two wage earners. *good idea - fair*

8. Reduce the "marriage penalty" by providing a tax credit for the second wage earner. Treasury currently proposes maximum credit fo \$600. Pechman suggests a maximum of \$2,500. ?

9. Convert the present deductions for mortgage interest, property taxes, and charitable contributions into credits.* Would tend to benefit middle income taxpayers who itemize as opposed to wealthy taxpayers. Would probably help charitable giving to churches but hurt it for universities. Considerable increase in complexity. Probably better to encourage people to move away from itemizing altogether.

10. Allow taxpayers who use standard deduction to itemize for items referred to in 9 above. Very costly and considerable increase in complexity. Instead of moving people away from itemizing, this would constitute a major move toward more itemizing. Would, however, help low and middle income taxpayers who presently take the standard deduction.

11. Repeal accelerated depreciation for real estate tax shelters (other than low income housing). We agree. This is in Treasury program (although not 100%). ✓

12. Repeal intangible drilling cost deduction for oil and gas. This is the single major tax preference available to large oil companies (also for small producers) which is not available to other U.S. corporations. We will be subject to major criticism if we do not move against this preference (as well as percentage depletion for the small producers) as part of our reform program. On the other hand, we may be subject to charges of inconsistency in our energy program if we do. Dr. Schlesinger should be contacted before a decision here. 9 yrs ✓

13. Adopt taxable bond option for state and local governments. We agree. This is in the Treasury program. ✓

14. Repeal the exclusion for interest on industrial development bonds. This is probably a good idea. Not in current Treasury program

15. Repeal of itemized deduction for gasoline taxes. We agree. ✓ This is in the Treasury program.

16. Repeal of deduction for interest on consumer debt.* This bears careful consideration. It is a large revenue item (about \$2.5 billion). However, a large part of this deduction is taken by middle income taxpayers and it would be somewhat inconsistent to repeal this deduction and not do anything about mortgage interest.

* If we choose to propose a floor for all itemized deductions or a lower rate schedule for taxpayers who choose not to itemize, we will not have to make decisions or proposals on the separate itemized deductions.

17. Phase-out current deduction for medical expenses as National Health Insurance is phased in.* In the interim, the Treasury proposal of putting a floor on medical expenses and casualty losses makes better sense.

18. Eliminate deductions for state and local income and sales taxes and return revenues to states and localities.* This is worthy of consideration but would bear down hard on high income tax states (New York, Wisconsin, Minnesota, etc.) and would constitute a major change in direction. Treasury program would eliminate deduction for sales taxes. *It seems that it would hurt these states*

19. Allow individual investors to deduct \$9,000 of net capital losses. We would probably prefer Treasury proposal of \$8,000 (greater the loss offset, greater the loss of revenue to Treasury). *close*

20. Make existing 10% ITC refundable. Would help businesses which do not have tax liability. This is worth consideration but would be fairly expensive.

21. Extend refundability of ITC to non-profit institutions. Would also be costly. Since these institutions do not pay taxes, this would amount to a direct subsidy through the tax system, which we do not think can be justified. *No*

22. Adopt new 5% incremental ITC. We regard this as the most preferable form of business tax relief. It specifically rewards above-average investment. Would have greater impact on business investment than any other form of tax reduction. *Pursue*

23. Cut the corporate tax rate from 48 to 45. Provides general tax relief for all corporations, regardless of their investment situation. Probably the single most popular form of business tax relief. Could be included in a two-part business tax proposal: incremental ITC plus cut in corporate rates.

24. Crack down on corporate "expense account living". We agree and regard this as a necessary part of a credible tax reform program. This is not in the current Treasury program but we are hopeful that it will be included in the revised program to be presented to you on Friday. *include*

25. Require accrual accounting for large farm corporations. We agree. This is in Treasury program. *✓*

* See footnote on page 3.

26. Repeal the percentage depletion allowance for oil and gas and all other minerals. As noted above, you will have to make a general policy decision on the inclusion of oil preference items in the tax reform program. Current Treasury program cuts back percentage depletion for non-oil minerals by 50%. Consideration should be given to cutting it back 100%. *I agree*

27. Repeal the ADR system of accelerated depreciation. By itself, this could adversely affect business investment. OK only if the revenue gain is put into an ITC incentive.

28. Eliminate DISC. We agree. This is in Treasury's program. ✓

29. Eliminate the deferral of tax on profits of controlled foreign subsidiaries. We agree. At top of most tax reform lists, but a glaring omission from Treasury program. Deferral is a major incentive for U.S. multinational corporations to invest abroad (mostly in developed and semi-developed countries rather than LDCs) rather than in U.S. As such, it runs against our concern for domestic capital formation. Difficult to tell organized labor and average Americans that we don't care about this "runaway plant" provision. Makes little sense to go after DISC (which business will argue is an export incentive) but not deferral (incentive to move production abroad). Deferral is also a major source of complexity in the foreign tax provisions. You made numerous campaign statements urging repeal of deferral. ✓ *I agree*

30. Reform of estate tax provisions. These proposals are worth consideration but may be somewhat premature in light of a major (although imperfect) reform effort by Congress in 1976.

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

September 21, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT

Stu

SUBJECT:

Questions and Answers for Press
Conference 9/21/77

Attached are the domestic questions and answers
for today's press conference.

originals returned to Stu

POSTAL POLICY

Q: When your postal policy was announced, it was stated that you would not at this time support additional subsidies for the deficit-ridden postal service. Would you elaborate on your position.

A: -- Our review of recent postal operations indicates that the financial position has improved somewhat and the Postal Service estimates that with their currently proposed rates, they can provide existing levels of service for a reasonable period of time into the future.

-- My position is that the need for Federal tax dollars in support of the Postal Service must be examined in relationship to other pressing national priorities.

-- As the existing tax subsidies which amount to \$1.6 billion this year are phased out, we will be taking a hard look at various services and rates to determine on a line-item basis which of those deserve public taxpayer support and how much support.

-- I basically support the principle that the user should pay the cost of operating the Postal Service.

-- I think it is important that the public understand that 80% of the mail is generated by business and 20% by citizens -- yet, 72% of Federal income tax revenues are paid by individuals. When responsibility for paying a dollar of postal cost is shifted from

*Business uses
80% mail -
Individuals pay
72% of mail
costs*

THE WHITE HOUSE
WASHINGTON

September 21, 1977

Stu Eizenstat

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling. Please notify OMB and Secretary Andrus of the President's decision.

Rick Hutcheson

cc: Jack Watson

RE: COMMENTS ON INTERIOR DEPARTMENT
APPEAL OF FY 1978 SUPPLEMENTAL
BUDGET REQUEST

THE WHITE HOUSE
WASHINGTON

STM- PLS NOTIFY OMB + ANDRUS OF
PRES'S DECISION

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION	FYI	
<input type="checkbox"/>	<input type="checkbox"/>	MONDALE
<input type="checkbox"/>	<input type="checkbox"/>	COSTANZA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	<input type="checkbox"/>	LIPSHUTZ
<input type="checkbox"/>	<input type="checkbox"/>	MOORE
<input type="checkbox"/>	<input type="checkbox"/>	POWELL
<input checked="" type="checkbox"/>	<input type="checkbox"/>	WATSON
<input type="checkbox"/>	<input type="checkbox"/>	LANCE
<input type="checkbox"/>	<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

September 16, 1977

*Stu -
Prepare memo
LMS
J*

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT

Stu

SUBJECT:

Comments on Interior Department Appeal
on FY 1978 Supplemental Budget Request

Secretary Andrus' attached memorandum appeals several cuts in the Indian Affairs area made by OMB in a FY 1978 supplemental request. OMB also made substantial cuts in his request for the new strip mine enforcement program, but Secretary Andrus is not appealing those on the understanding that should the need arise next Spring, another request will be made. The Indian Affairs appeal items total \$22.2 million.

Appeal Items

I. Fish hatchery funding related to settling NW Indian fishing rights dispute. Request for hatchery construction and management totals \$17.7 million.

The effectiveness of the Federal Task Force working with the various parties to the Northwest fishing rights dispute (Boldt decision) depends on its credibility as an agent seeking a solution acceptable to all parties. It is generally agreed that enhancement of the fishery will be part of the long-term solution. The Task Force has reviewed a number of hatchery proposals covered by this request and feels the specific proposals will be needed regardless of the other elements of a solution. Negotiations are very delicate, and the Task Force feels that unless the supplemental is forthcoming in time for construction work next Spring, the federal government's commitment to a solution will appear questionable and the effort might fall apart. On the other hand, OMB feels that funding of specific hatcheries should await completion of the entire Task Force effort.

RECOMMENDATION

We support the thrust of the Interior request. One solution to this bitter Indian - non-Indian fishing dispute is to have more fish available to both groups. This additional money, at this critical time, will evidence our commitment to provide help for both groups.

We recommend that you ask OMB and Interior to develop a scaled-down request (cut management funds; phase in construction funding rather than putting all in FY 1978). *ok*

II. Indian Rights Protection: Interior has requested \$1 million for pursuing Indian claims under the new statute of limitations (allowing 2 3/4 years for filing all claims) and \$1.35 million for defending major Indian rights cases in which the U.S. government is defendant, including water rights cases requiring complex studies. OMB feels a supplemental is premature for the claims filing and wants Interior to map out a 2 3/4 year plan before a supplemental request is made. OMB feels the other cases could be carried out with reprogrammed funds. If you disapprove all or part of the request, Interior should understand that 1) a plan for claims work should be developed quickly, and 2) the defense cases should be pursued vigorously with reprogrammed funds. It is essential that we are not perceived as cutting back on this activity.

RECOMMENDATION

We recommend that you approve only funds for defense cases (\$1.35 million) and consider a supplemental request for statute of limitations work when a plan is prepared. *ok*

III. Navajo-Hopi Joint Use of Area Fencing: Interior is under a court order to build a fence (request: \$2 million) partitioning the Navajo-Hopi joint use area. OMB agrees it is essential to proceed with the work but would prefer that Interior use reprogrammed funds.

RECOMMENDATION

We agree with OMB and recommend disapproval of the request. *ok*

INTERIOR APPEAL



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

September 12, 1977

Memorandum

To: The President

From: Secretary of the Interior

Subject: Appeal of FY 1978 budget supplementals for the Department of the Interior

As I indicated in the Cabinet meeting today, I met Friday evening and over the weekend with OMB to work out our differences on the pending package of FY 1978 budget supplementals for the Department of the Interior.

Of the total Department request of \$318 million, OMB has disallowed \$248 million. While I am not appealing \$226 million of these cuts at this time, I do want to appeal \$22 million of them.

Those I am not appealing now:

	<u>Request</u> <u>\$ Thous.</u>	<u>Allowance</u> <u>\$ Thous.</u>
Surface Mining	110,000 (1,429 positions)	62,872 (864 positions)

(I have agreed to accept this on a trial basis, on OMB's assurance that should we need more resources they will support a further request in the spring.)

Land and Water Conservation Fund	117,363	0
----------------------------------	---------	---

(I can live with this for now.)

Minnesota Valley National Wildlife Refuge - comprehensive plan	500	0
---	-----	---

(I can live with this but perhaps the Vice President cannot.)

Other requests	<u>67,672</u>	<u>6,798</u>
----------------	---------------	--------------

Total	295,535	69,670
-------	---------	--------

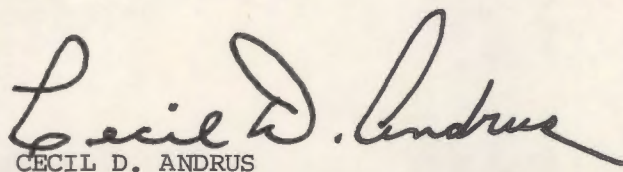
Amount disallowed	225,865	
-------------------	---------	--



Those I do wish to appeal:

	<u>Request</u> <u>\$ Thous.</u>	<u>Allowance</u> <u>\$ Thous.</u>
<u>Boldt Decision - Northwest Fisheries</u>		
Fish and Wildlife Service: Makah Hatchery and Research Facility	9,675	0
Bureau of Indian Affairs: Fish Hatchery Management	375	0
Bureau of Indian Affairs: Fish Hatchery Construction	7,663	0
<p>(An Administration Task Force is working on a long-term solution to the violent Indian - non-Indian fishing controversy in Washington State. The solution may include enhancement projects. If we won't even support ongoing hatchery projects now, as these funds do, the credibility of the Task Force will be destroyed.)</p>		
<u>Bureau of Indian Affairs</u>		
Rights protection	2,350	0
<p>(Congress gave Interior 2-3/4 years to process hundreds of Indian claims. Money is needed to start the work immediately to meet this timetable and our trust obligation to the Tribes. Funds are also urgently needed for technical assistance in three complex water rights cases in order to adequately defend the rights of the U.S. and several Tribes.)</p>		
Navajo-Hopi Survey/Fencing	2,090	0
<p>(It is necessary to survey and fence the partitionment of the Navajo and Hopi Joint Use Area, as required by court order and P.L. 93-531.)</p>		
Total	22,153	0
Amount appealed	22,153	

In order to carry out these essential responsibilities, I need the full amount of our original request. I ask that you give this appeal your favorable consideration, recognizing that while the dollar amounts are small the programmatic significance to the Department and the Administration is very large.

A handwritten signature in dark ink, reading "Cecil D. Andrus". The signature is fluid and cursive, with the first name "Cecil" and last name "Andrus" clearly legible, and "D." as a small middle initial.

CECIL D. ANDRUS

OMB RESPONSE



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

SEP 19 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

BERT LANCE *BL*

Subject:

Appeal of FY 1978 Budget
Supplemental for the
Department of the Interior

The Department of the Interior has appealed \$22 million out of a total supplemental request of \$296 million. OMB's criteria in considering these supplementals was to allow only those supplementals: that were of an emergency nature, and where it is not feasible to absorb the additional costs from existing funds. In our opinion, neither of the supplementals appealed--Northwest Fisheries nor the Bureau of Indian Affairs items--meets these criteria. Naturally, there is often a difference of opinion between OMB and the Departments over both the question of urgency and the desirability of reprogramming.

PACIFIC NORTHWEST FISHERIES PROJECT

Interior states that immediate funding for these projects is needed in order for the Fisheries Task Force to show progress and maintain its credibility. The Task Force, composed of headquarters and field representatives of the Departments of Interior, Commerce, and Justice, was established this spring to analyze alternatives and develop an overall fisheries management plan encompassing Federal, State, and Indian interests. This was in response to the 1974 Boldt decision. OMB believes that the most effective means for the Task Force to show progress would be to complete expeditiously the long-term fisheries plan and make it available for review by the interested parties.

On the matter of credibility, in investigating the Secretary's appeal, we have learned that representatives of this Task Force made promises in the region that they would do everything in their power to see to it that additional funds were provided in FY 1978 for these purposes. These promises were made without completing their study and before any budgetary consultation and authorization.

Three types of projects were proposed for supplemental funding.

1. Fish and Wildlife Service. Makah Hatchery - Is currently under phased construction. Supplemental would fully fund construction immediately. Immediate full funding is not necessary and, in fact, was opposed on ecological grounds by the Fish and Wildlife Service during formulation of their FY 1978 Budget. Some speed-up of construction, if necessary to provide political capital for the Fisheries Task Force, could be achieved by reprogramming within the \$65 million construction account.
2. Bureau of Indian Affairs. Fish Hatchery Construction - This request is largely for construction of one new hatchery but also would increase production at several others. This item is not of an emergency nature and should await the full report of the Task Force. Expansion of these hatcheries could be accomplished by reprogramming from \$90 million in construction and unobligated balances for these purposes.
3. Bureau of Indian Affairs. Management Improvement - Supplemental would fund improved management of three existing hatcheries. Request is not emergency in nature, and reprogramming is possible within a \$50 million subactivity in order to improve hatchery management; such reprogramming would not require congressional approval.

In general, none of the projects is of an emergency nature; all may be considered for funding in the 1979 Budget. Any project funded prior to the Task Force's report may undercut both its authority and its discretion to resolve fisheries problems.

BIA SUPPLEMENTALS

1. Rights Protection - The Department has had two extensions since 1966 to clear up these cases, when the statute of limitations was imposed. Lack of a comprehensive plan for identifying and processing these claims has been the primary reason why these deadlines continuously must be

extended. Supplemental funding should not go forward until an orderly plan for meeting the statute of limitations by 1980 is developed. Further, \$13 million in the Rights Protection subactivity is available for reprogramming if it is deemed appropriate to fund these items at this time.

2. Navajo-Hopi Survey/Fencing - We recognize that this work should proceed, but our denial of additional funds is based on the conviction that it can be funded by reprogramming within the \$50 million subactivity in which this appears. In fact, appropriation which could be used to fund this activity totals \$675 million in FY 1978; and the Department should be able to adjust that account readily enough to fold in a \$2.1 million item without stirring up a constituent counter-reaction.

THE WHITE HOUSE

WASHINGTON

Memo = 11 am

Date: September 14, 1977

MEMORANDUM

FOR ACTION:

Stu Eizenstat *attached*
Jack Watson *nc by phone*
Bert Lance - *attached*
W.B. Sullivan
Lance

FOR INFORMATION:

The Vice President
Frank Moore (Les Francis) *nc*

*need
OMB
comment*

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Andrus memo dated 9/12/77 re Appeal of FY 1978 Budget
Supplementals for the DOI.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 10:00 A.M.

DAY: Friday

DATE: September 16, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

Budget Supplementaries -
N.C. from Watson

Date: September 14, 1977

MEMORANDUM

FOR ACTION:

Stu Eizenstat
Jack Watson
Bert Lance

FOR INFORMATION:

The Vice President
Frank Moore (Les Francis)

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Andrus memo dated 9/12/77 re Appeal of FY 1978 Budget
Supplementals for the DOI.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 10:00 A.M.

DAY: Friday

DATE: September 16, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

Senate Liaison: "No comment, except for the appeal on the Boldt decision. The N.W. Congressmen and Senators will welcome any solution DOI has for that agonizing situation." (BT)

House Liaison: "No Comment"

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

<input checked="" type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION	FYI	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	MONDALE
<input type="checkbox"/>	<input type="checkbox"/>	COSTANZA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	<input type="checkbox"/>	LIPSHUTZ
<input type="checkbox"/>	<input checked="" type="checkbox"/>	MOORE
<input type="checkbox"/>	<input type="checkbox"/>	POWELL
<input checked="" type="checkbox"/>	<input type="checkbox"/>	WATSON
<input checked="" type="checkbox"/>	<input type="checkbox"/>	LANCE
<input type="checkbox"/>	<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

No. 76-811

In the Supreme Court of the United States

OCTOBER TERM, 1977

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,
PETITIONER

v.

ALLAN BAKKE

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF CALIFORNIA

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE

GRIFFIN B. BELL,
Attorney General,

WADE H. McCREE, Jr.,
Solicitor General,

DREW S. DAYS, III,
Assistant Attorney General,

LAWRENCE G. WALLACE,
Deputy Solicitor General,

FRANK H. EASTERBROOK,
Assistant to the Solicitor General,

BRIAN K. LANDSBERG,
JESSICA DUNSAY SILVER,

*Attorneys,
Department of Justice,
Washington, D.C. 20530.*

THE PRESIDENT HAS SEEN.

INDEX

	Page
Questions presented.....	1
Interest of the United States.....	1
Statement.....	3
A. Facts.....	3
1. The regular admissions process.....	5
2. The special admissions program.....	7
a. Racial composition of applicants and students.....	9
b. Eligibility for the special admissions program.....	10
c. The process of selection.....	12
d. Purpose of the program.....	14
3. Respondent's application.....	15
B. The state courts' opinions.....	17
1. The Superior Court.....	17
2. The Supreme Court of California.....	18
Introduction and summary of argument.....	23
Argument.....	30
I. Race may be taken into account to counteract the effects of prior discrimination.....	30
A. This Court has held that minority-sensitive decisions are essential to eliminate the effects of discrimination in this country.....	30
B. Both the legislative and executive branches of the federal government have adopted minority-sensitive programs for the purpose of eliminating the effects of past discrimination.....	33

(1)

Argument—Continued

II. The University could properly conclude that minority-sensitive action was necessary to remedy the lingering effects of past discrimination	Page 38
A. Minority-sensitive relief is not limited to correction of discrimination perpetrated by the institution offering relief	38
B. Discrimination against minority groups has hindered their participation in the medical profession	41
III. The central issue on judicial review of a minority-sensitive program is whether it is tailored to remedy the effects of past discrimination	50
A. A program is tailored to remedy the effects of past discrimination if it uses race to enhance the fairness of the admissions process	55
B. There is no adequate alternative to the use of minority-sensitive admissions criteria	63
IV. The Supreme Court of California applied incorrect legal standards in evaluating the constitutionality of the special admissions program	66
A. The declaratory judgment forbidding the use of minority-sensitive admissions programs should be reversed	66
B. Whether respondent was wrongfully denied admission to the medical school should not be decided on the present record	67
Conclusion	74
Appendix A	1A
Appendix B	3A
Appendix C	4A
Appendix D	9A

CITATIONS

Cases:	Page
<i>Albemarle Paper Co. v. Moody</i> , 422 U.S. 405	24, 32
<i>Anderson v. Martin</i> , 375 U.S. 399	30
<i>Associated General Contractors of Massachusetts, Inc. v. Altschuler</i> , 490 F. 2d 9, certiorari denied, 416 U.S. 957	37
<i>Boston Chapter, N.A.A.C.P., Inc. v. Beecher</i> , 504 F. 2d 1017, certiorari denied, 421 U.S. 910	30
<i>Brown v. Board of Education</i> , 347 U.S. 483	41
<i>Califano v. Webster</i> , No. 76-457, decided March 21, 1977	28, 39, 64-65
<i>Castaneda v. Partida</i> , No. 75-1552, decided March 23, 1977	54
<i>Contractors Association of Eastern Pennsylvania v. Secretary of Labor</i> , 442 F. 2d 159, certiorari denied, 404 U.S. 854	34
<i>Craig v. Boren</i> , 429 U.S. 190	54, 65
<i>Cypress v. Newport News General and Nonsectarian Hospital Association</i> , 375 F. 2d 648	48
<i>Dayton Board of Education v. Brinkman</i> , No. 76-539, decided June 27, 1977	31
<i>DeFunis v. Odegaard</i> , 82 Wash. 2d 11, 507 P. 2d 1169, vacated as moot, 416 U.S. 312	19
<i>Dothard v. Rawlinson</i> , No. 76-422, decided June 27, 1977	40
<i>Drummond v. Acree</i> , 409 U.S. 1228	53
<i>Endo, Ex parte</i> , 323 U.S. 283	47
<i>Franks v. Bowman Transportation Co.</i> , 424 U.S. 747	24, 31
<i>Gaston County v. United States</i> , 395 U.S. 285	56
<i>Georgia v. United States</i> , 411 U.S. 526	32
<i>Green v. County School Board</i> , 391 U.S. 430	30, 54
<i>Griggs v. Duke Power Co.</i> , 401 U.S. 424	32
<i>Hazelwood School District v. United States</i> , No. 76-255, decided June 27, 1977	61
<i>Hernandez v. Texas</i> , 347 U.S. 475	41
<i>International Brotherhood of Teamsters v. United States</i> , No. 75-636, decided May 31, 1977	31, 40, 55
<i>Kahn v. Shevin</i> , 416 U.S. 351	40
<i>Keyes v. School District No. 1, Denver, Colorado</i> , 413 U.S. 189	41

Cases—Continued

<i>Lau v. Nichols</i> , 414 U.S. 563-----	Page 41
<i>Linmark Associates, Inc. v. Township of Willingboro</i> , No. 76-357, decided May 2, 1977-----	25, 39
<i>Lucas v. Forty-Fourth General Assembly of Colorado</i> , 377 U.S. 713-----	54
<i>Mathews v. Lucas</i> , 427 U.S. 495-----	26, 51
<i>McDaniel v. Barresi</i> , 402 U.S. 39-----	40
<i>McDonald v. Sante Fe Trail Transportation Co.</i> , 427 U.S. 273-----	52
<i>Millikin v. Bradley</i> , No. 76-447, decided June 27, 1977--	56
<i>Missouri ex rel. Gaines v. Canada</i> , 305 U.S. 337-----	44
<i>Morales v. New York</i> , 396 U.S. 102-----	23
<i>Morton v. Mancari</i> , 417 U.S. 535-----	54
<i>Mt. Healthy City School District Board of Education</i> <i>v. Doyle</i> , 429 U.S. 274-----	72
<i>North Carolina State Board of Education v. Swann</i> , 402 U.S. 43-----	24, 31
<i>Northeast Construction Co. v. Romney</i> , 485 F. 2d 752--	34
<i>Otero v. New York City Housing Authority</i> , 484 F. 2d 1122-----	37
<i>Porcelli v. Titus</i> , 431 F. 2d 1254, certiorari denied, 402 U.S. 944-----	37
<i>Rios v. Enterprise Association</i> , 501 F. 2d 622-----	53
<i>Rossetti Contracting Co. v. Brennan</i> , 508 F. 2d 1039--	34
<i>Simpkins v. Moses H. Cone Memorial Hospital</i> , 323 F. 2d 959, certiorari denied, 376 U.S. 938-----	47
<i>South Carolina v. Katzenbach</i> , 383 U.S. 301-----	33
<i>Springfield School Committee v. Barksdale</i> , 348 F. 2d 261-----	37
<i>Strauder v. West Virginia</i> , 100 U.S. 303-----	37
<i>Swann v. Charlotte-Mecklenburg Board of Education</i> , 402 U.S. 1-----	30
<i>Trafficante v. Metropolitan Life Insurance Co.</i> , 409 U.S. 205-----	39
<i>Trans World Airlines, Inc. v. Hardison</i> , No. 75-1126, decided June 16, 1977-----	52
<i>United Jewish Organizations of Williamsburgh, Inc.</i> <i>v. Carey</i> , 430 U.S. 144-----	24, 32, 40, 50, 51, 60
<i>United States v. Antelope</i> , No. 75-661, decided April 19, 1977-----	54

Cases—Continued

<i>United States v. Montgomery County Board of Educa-</i> <i>tion</i> , 395 U.S. 225-----	Page 30
<i>Weinberger v. Weisenfeld</i> , 420 U.S. 636-----	50
<i>Wheeler v. Barrera</i> , 417 U.S. 402-----	23
<i>Yick Wo v. Hopkins</i> , 118 U.S. 356-----	47
Constitution, statutes, and regulations:	
United States Constitution:	
Thirteenth Amendment-----	37
Fourteenth Amendment-----	17, 18, 51, 52
Fifteenth Amendment-----	37
Civil Rights Act of 1964:	
Title IV, 78 Stat. 248, 42 U.S.C. 2000c-6-----	3
Title VI, 78 Stat. 252, 42 U.S.C. 2000d <i>et seq.</i> -----	34
42 U.S.C. 2000d-----	3
42 U.S.C. 2000d-1-----	35
Title VII, 78 Stat. 253, as amended by the Equal Employment Opportunity Act of 1972, 86 Stat. 103, 42 U.S.C. (and Supp. V) 2000e <i>et seq.</i> :	
Section 703(j), 42 U.S.C. 2000e-2(j)-----	53
Section 715, 42 U.S.C. (Supp. V) 2000e-14--	36
Title IX, 78 Stat. 266, 42 U.S.C. 2000h-2-----	3
Civil Rights of 1974, 86 Stat. 111, Section 715, as amended, 42 U.S.C. (Supp. V) 2000e-14-----	36
Emergency School Aid Act, 86 Stat. 354, as amended, 20, U.S.C. (Supp. V) 1601 <i>et seq.</i> -----	43
Public Works Employment Act of 1977, Pub. L. 95-28, 91 Stat. 116-117-----	2, 33
42 U.S.C. 1981-----	52
42 U.S.C. 3766(b)-----	53
41 C.F.R. 60-2.10-----	34
45 C.F.R. Part 80-----	35
45 C.F.R. 80.3(b)(6)(ii)-----	2, 35
45 C.F.R. 80.5(j)-----	35
Miscellaneous:	
AAMC, <i>Medical School Admission Requirements 1978-</i> <i>1979</i> (1977)-----	
Association of American Medical Colleges, <i>Medical</i> <i>School Admission Requirements 1978-1979</i> (1977)--	48, 49
Brest, <i>The Supreme Court, 1975 Term, Forward: In</i> <i>Defense of the Antidiscrimination Principle</i> , 90 Harv. Law Rev. (1976)-----	60

Miscellaneous—Continued

Carroll, <i>A Comparative Analysis of Three Admission/Selection Procedures</i> (H.E.W. Technical Paper 77-D4) (1977)-----	Page 66
Comment, <i>The Philadelphia Plan: A Study on the Dynamics of Executive Power</i> , 39 U. Chi. L. Rev. 732 (1972)-----	34
122 Cong. Rec. S17320 (daily ed., September 30, 1976)-----	53
123 Cong. Rec. H1436-H1437 (daily ed., February 24, 1977)-----	33
123 Cong. Rec. H6099-H6106 (daily ed., June 17, 1977)-----	34
Curtis, <i>Blacks, Medical Schools, and Society</i> (1971)-----	45, 48
Dube, <i>Datagram: U.S. Medical Student Enrollment, 1968-1969 Through 1972-1973</i> , 48 J. Med. Educ. 293 (1973)-----	46, 47
Dube, <i>Datagram: U.S. Medical Student Enrollment, 1972-1973 Through 1976-1977</i> , 52 J. Med. Educ. 164 (1977)-----	47
Executive Order 11246, 30 Fed. Reg. 12319, as amended by Executive Order 11375, 32 Fed. Reg. 14303-----	2, 33, 34
41 Fed. Reg. 38814-38815-----	2, 36
Gordon, <i>Descriptive Study of Medical School Applicants, 1975-1976</i> (1977)-----	47
Greenawalt, <i>Judicial Scrutiny of "Benign" Racial Preference in Law School Admissions</i> , 75 Colum. L. Rev. 559 (1975)-----	51
Haug and Martin, <i>Foreign Medical Graduates in the United States, 1970</i> (1971)-----	46-47
Johnson, Smith and Tarnoff, <i>Recruitment and Progress of Minority Medical School Entrants 1970-1972</i> , 50 J. Med. Educ. 713 (1975 Supp.)-----	48, 49
Kaplan, <i>Equal Justice in An Unequal World: Equality for the Negro—The Problem of Special Treatment</i> , 61 Nw. U. L. Rev. 363 (1966)-----	51
Melton, <i>The Negro Physician</i> , 43 J. Med. Educ. 802 (1968)-----	47, 48
Morais, <i>The History of the Negro in Medicine</i> (1967)-----	44, 45, 47, 48
Murray, <i>States' Laws on Race and Color</i> (1951)-----	44
Odegaard, <i>Minorities in Medicine</i> (1977)-----	49

Miscellaneous—Continued

O'Neil, <i>Preferential Admissions: Equalizing the Access of Minority Groups to Higher Education</i> , 80 Yale L. J. 699 (1974)-----	Page 51
Policy Statement on Affirmative Action Programs for State and Local Government Agencies, 41 Fed. Reg. 38811-----	2
Reitzes, <i>Negroes and Medicine</i> (1958)-----	45
<i>Report of the Task Force to the Inter-Association Committee on Expanding Educational Opportunities in Medicine for Blacks and Other Minority Students</i> (1970)-----	49
U.S. Bureau of the Census, 1970 Census, Vol. I, <i>Characteristics of the Population</i> (1973):	
California (Part 6)-----	4, 43, 70
United States Summary-----	41, 42, 45, 46
U.S. Bureau of the Census, <i>Current Population Reports, Persons of Spanish Origin in the United States: March 1976</i> -----	42
U.S. Bureau of the Census, <i>Current Population Reports, The Social and Economic Status of the Black Population in the United States 1974</i> (1975)-----	42
U.S. Bureau of the Census, 1970 Census, <i>Subject Reports: Final Report PC(2)-7A, Occupational Characteristics; Final Report PC(2)-1C, Persons of Spanish Origin</i> (1973)-----	46
U.S. Bureau of the Census, <i>Subject Reports-Japanese, Chinese, and Filipinos in the United States</i> -----	42
U.S. Department of Health, Education, and Welfare, Office of Health Resources Opportunity, <i>Identification of Problems in Access to Health Services and Health Careers for Asian Americans</i> (1976)-----	46
Waldman, <i>Economic and Racial Disadvantage as Reflected in Traditional Medical School Selection Factors: A Study of 1976 Applicants to U.S. Medical Schools</i> (1977)-----	43
Wellington and Gyorfly, <i>Draft Report of Survey and Evaluation of Equal Educational Opportunity in Health Profession Schools:</i>	
Table II (1975)-----	49
Table VIII-----	49, 50

THE WHITE HOUSE
WASHINGTON
September 21, 1977

Jody Powell

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson
RE: LETTER FROM CAROL FOREMAN
ON ABORTION

ADMINISTRATIVELY CONFIDENTIAL

THE WHITE HOUSE
WASHINGTON

*Admin
conf'd*

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION	FYI
<input type="checkbox"/>	MONDALE
<input type="checkbox"/>	COSTANZA
<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	LIPSHUTZ
<input type="checkbox"/>	MOORE
<input checked="" type="checkbox"/>	POWELL
<input type="checkbox"/>	WATSON
<input type="checkbox"/>	LANCE
<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

THE WHITE HOUSE
WASHINGTON

9/21/77

Jody:

This is the first of the letters
to arrive from women in the
Administration on the subject
of abortion - FYI.

Rick



THE PRESIDENT HAS SEEN.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

no answer
J

R✓ September 15, 1977

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I feel compelled to tell you of my opposition to your stated policy against the use of Federal funds to subsidize abortions for indigent women dependent on government programs such as Medicaid for their health care.

I respect, understand and fully endorse your own personal opposition to abortion on moral grounds, Mr. President. At the same time, my own background and strongly held ethical beliefs have led me to a different conclusion. I think we would both agree that the public policies of this nation should not be based only on our personal beliefs, but what is public policy in the national interest.

In that regard, I question whether the denial of medicaid reimbursements for abortion -- an action that has the practical effect of coercing welfare recipients to bear children they do not want and do not feel they can afford -- is in the national interest. It does not seem to be in accord with the stated goals of your welfare policy. It will not improve the health and well-being of the women directly involved, or the wellbeing of their children, their families or their communities.

It has been argued that in the wake of the denial of Medicaid reimbursements for abortions, pregnant women on welfare who want abortions would somehow obtain them, either from the "private sector" or by raising their own funds. I believe this is unrealistic. In all but 12 states, the average cost of a legal abortion in 1976 was more than the state's average monthly AFDC payment to the entire family. In 11 states, the average abortion cost was more than twice as great as the monthly AFDC family allotment. With regard to the private sector, research conducted over the past 25 years has shown conclusively that the role of private philanthropy in the financing of personal health services has declined substantially. In fact, while private philanthropy may have once played a significant role in health facilities construction and research, its role in the actual financing of personal health services has always been extremely limited,

Electrostatic Copy Made
for Preservation Purposes

according to HEW research. In 1950, the percentage of total United States health care expenditures obtained from philanthropy or industrial in-plant services was only 3.7; by 1975, that percentage had declined to 1.1. Therefore, even if private philanthropy were able to do five times as well in paying for abortions as it does in paying for other personal health services, the proportion of the total cost financed would be only about 5.5 percent -- or about \$3 million of the almost \$60 million currently being financed under the Medicaid program.

It seems clear, then, that women on welfare will, in fact, be denied access to abortion services if reimbursements are not available from the Federal government. Women of means throughout the country will not be denied access. To me, the obvious inequity of a dual system of medical care, predicated on an enforced system of morality for one segment of society alone, is untenable.

Many of the women who will be denied access to abortion are not women at all, but little girls barely into their teens. The health and social implications of childbearing at this age are overwhelmingly negative.

Mr. President, I do not expect that this letter will change your mind, but I do hope that in the weeks and months ahead you will continue to think about this policy and its effects on literally thousands of indigent women, about whom I know we are both deeply concerned.

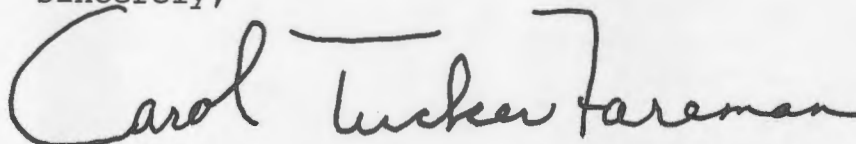
There are actions that you could take that may lead to a better understanding of the problem created and to alleviate the effects of that problem. I suggest that you consider appointing a committee of experts to make a complete investigation of the implications of this problem. I also hope you will consider it imperative to expand greatly Federally funded family planning services and education, and contraceptive research. Abortion, after all, is an alternative to unwanted pregnancy which is chosen by more than one million women in this country each year. It seems to me that the most practical alternative to abortion would be prevention of those unwanted pregnancies. While it is doubtful that the need for abortion could ever completely be eradicated, I, as well as you, look forward to a time when the need for women to rely on this procedure of last resort will be vastly reduced.

Finally, on the assumption that there will be an even greater need for supportive health and nutrition services for low-income women, I hope you will consider expanding the Women, Infant, and Children

Special Feeding Program of USDA to serve all of the population in need. This program provides a special nutrition supplement to low-income pregnant and lactating women in nutritional need and to their children up to the age of 5. This program now operates in about 500 counties. If low-income women are to have limited access to abortion, I believe we must do everything possible to improve the outcome of their pregnancies.

Mr. President, I recognize that a letter such as this is an unusual communication between the President and one of his appointees. The nature of the issue is itself unusual and warrants, I believe, this step. I appreciate the fact that you have created within your Administration an atmosphere in which I feel free to address you on an issue of disagreement that is not within my area of jurisdiction.

Sincerely,

A handwritten signature in dark ink, reading "Carol Tucker Foreman". The signature is fluid and cursive, with the first name "Carol" being the most prominent.

CAROL TUCKER FOREMAN
Assistant Secretary for
Food and Consumer Services

8:00 AM

THE PRESIDENT HAS SEEN

THE WHITE HOUSE

WASHINGTON

September 20, 1977

BREAKFAST WITH REPUBLICAN SENATORS

Wednesday, September 21, 1977

8:00 a.m. (60 minutes)

Roosevelt Room

From: Frank Moore *J.M.*

I. PURPOSE

To meet with Republican Members of the Senate.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: This is the second breakfast meeting with the Republican Senators. The group consists of a cross section of the Senate Republicans, including leadership, freshmen, ranking minority committee members, liberals, moderates and conservatives.
- B. Participants: The President; Senators Jake Garn, Barry Goldwater, S. I. Hayakawa, H. John Heinz, III, Jesse Helms, Paul Laxalt, Richard G. Lugar, Charles McC. Mathias, James A. McClure, James B. Pearson, Charles H. Percy, William V. Roth, Ted Stevens, Frank Moore, Dan Tate, Bob Thomson, Bill Smith.
- C. Press Plan: White House Photo

III. TALKING POINTS

- A. No agenda has been planned to allow for candid, open-ended conversation between you and the Senators.
- B. A biographical sketch on each of the Senators who will be attending the breakfast is attached. Included, where appropriate, are some of their legislative interests.

Electrostatic Copy Made
for Preservation Purposes

JAKE GARN (R-Utah); 1st term, 1980; born October 12, 1932 in Richfield, Utah; Mormon; wife deceased; four children; B.S., University of Utah, 1955; U.S. Navy, 1956-60; currently a lieutenant colonel in the Utah Air National Guard; insurance executive, 1960-68; Salt Lake City Commissioner, 1968-72; Salt Lake City mayor, 1972-74; 1st Vice President, National League of Cities; U.S. Senate, 1975 - .

Committee on Armed Services, ranking minority member of Subcommittee on General Legislation, Subcommittee on Arms Control; Committee on Banking, Housing and Urban Affairs, ranking minority member on Subcommittee on Rural Housing, Subcommittee on International Finance, Subcommittee on Housing and Urban Affairs; Select Committee on Intelligence, ranking minority member on Subcommittee on Intelligence and the rights of Americans.

Senator Garn is an outspoken, blunt conservative who is highly critical of the Administration's water resources policy.

BARRY GOLDWATER (R-Arizona); 4th term, 1980; born January 1, 1909 in Phoenix, Arizona; married (Margaret); four children; attended University of Arizona; U.S. Army Air Corps, WW II; Phoenix city council, 1949-53; U.S. Senate, 1953-65, 1969- ; Republican candidate for President, 1964.

Committee on Armed Services, Subcommittee on Research and Development, ranking minority member of Subcommittee on Tactical Aircraft, ranking minority member of Subcommittee on Intelligence; Committee on Commerce, Science and Transportation, Subcommittee on Aviation, Subcommittee on Science and Space, Subcommittee on Surface Transportation; ranking minority member, Select Committee on Intelligence.

S.I. (SAM) HAYAKAWA (R-California); 1st term, 1982; born July 18, 1906 in Vancouver, B.C., Canada; married (Marge); three children; B.A., University of Manitoba, 1927; M.A., McGill University, 1928; Ph.D., University of Wisconsin, 1935; certified psychologist; naturalized U.S. citizen, 1954; instructor of English, Illinois Institute of Technology, 1937-47; lecturer, University of Chicago, 1950-55; professor of English, San Francisco State College, 1955-68; President, San Francisco State College, 1968-73, president emeritus, 1973-76; newspaper columnist, 1970 - ; authored Oliver Wendell Holmes: Selected Poetry and Prose (1939); Language in Action (1941); Language in Thought and Action (1949); The Use and Misuse of Language (1962); Funk and Wagnall's Modern Guide to Synonyms (1968); U.S. Senate, 1977- .

Committee on Agriculture, Nutrition and Forestry, Subcommittee on Environment, Soil Conservation and Forestry, ranking minority member of Subcommittee on Agricultural Credit and Rural Electrification, Subcommittee on Agricultural Research and General Legislation; Committee on the Budget; Committee on Human Resources, Subcommittee on Education, Arts and Humanities, Subcommittee on Aging, ranking minority member of Subcommittee on Child and Human Development.

Senator Hayakawa is enigmatic; inclined to support the Panama Canal treaties although he will be looking closely at reservations that can be attached to the treaties on defense issues.

JOHN H. HEINZ III (R-Pennsylvania); 1st term, 1982; born October 23, 1938 in Pittsburgh, Pennsylvania; Episcopalian; married (Teresa); three children; B.A., Yale University, 1960; M.A., Harvard University, 1963; U.S. Air Force; various positions with H.J. Heinz & Co.; delegate, Republican National Convention, 1968 and 1972; special legislative assistant to Senator Hugh Scott, 1964; board member, Children's Hospital of Pittsburgh, Yale University Art Gallery; chairman, Fellows of Carnegie Institute Museum of Art; U.S. House of Representatives, 1971-77; U.S. Senate, 1977- .

Committee on Banking, Housing and Urban Affairs, Subcommittee on Housing and Urban Affairs, ranking minority member of Subcommittee on Production and Stabilization, ranking minority member of Subcommittee on International Finance; Committee on the Budget; Committee on Governmental Affairs, Subcommittee on Intergovernmental Relations, ranking minority member of Subcommittee on Federal Spending Practices and Open Government, Subcommittee on Civil Service and General Services.

Senator Heinz is a moderate republican; occasionally supports us on major issues such as the water projects; voting record, however, has been more conservative than anticipated; was a key defection in public financing fight.

JESSE HELMS (R-North Carolina); 1st term, 1978; born October 18, 1921 in Monroe, North Carolina; Baptist; married (Dorothy); three children; attended Wingate College and Wake Forest College; U.S. Navy, 1942-45; city editor, Raleigh Times; administrative assistant to U.S. Senator Willis Smith, 1951-53, and to U.S. Senator Alton Lennon, 1953; executive director, North Carolina Bankers Association, 1953-60; executive vice president, WRAL-TV and Tobacco Radio Network, 1960-72; deacon and Sunday School teacher, Hayes Barton Baptist Church, Raleigh; recipient of two Freedoms Foundation awards for radio-television editorials; trustee, Meredith College, John F. Kennedy College and the Delaware Law School; U.S. Senate, 1973- .

Committee on Agriculture, Nutrition and Forestry, ranking minority member of Subcommittee on Environment, Soil Conservation and Forestry, Subcommittee on Agricultural Production, Subcommittee on Nutrition; Committee on Armed Services, Subcommittee on General Procurement, ranking minority member of Subcommittee on Arms Control, Subcommittee on Manpower and Personnel.

Senator Helms is one of the most personable members of the Senate; a rabid opponent of the Panama Canal treaties; up for reelection next year.

PAUL LAXALT (R-Nevada); 1st term, 1980; born August 2, 1922 in Reno, Nevada; married (Carol); seven children; B.S., LL.B., University of Denver, 1949; U.S. Army, WW II; district attorney, 1951-54; practicing attorney, 1954-66; Lt. Gov., 1963-66; Governor, 1966-70; senior partner, Laxalt, Berry and Allison, 1970-74; various land developments including hotel-casino in Carson City; U.S. Senate, 1975- .

Committee on Energy and Natural Resources, Subcommittee on Public Lands and Resources, Subcommittee on Energy Production and Supply; Committee on Finance, Subcommittee on Health, Subcommittee on Energy and Foundations, ranking minority member of Subcommittee on Social Security; Committee on the Judiciary, ranking minority member of Subcommittee on Administrative Practice and Procedure, Subcommittee on Antitrust and Monopoly, ranking minority member of Subcommittee on Immigration.

Senator Laxalt was Ronald Reagan's national campaign chairman; opposed to Panama Canal treaties; very conservative.

RICHARD G. LUGAR (R-Indiana); 1st term, 1982; born April 4, 1932 in Indianapolis, Indiana; Methodist; married (Charlene); four children; B.A., Denison University, 1954; Rhodes Scholar, B.A., M.A., Pembroke College, Oxford, England, 1956; U.S. Navy, 1957-60; Lugar Stock Farms, Inc. (livestock and grain operation), vice president-treasurer, 1960-76, secretary-treasurer, 1968-present; mayor of Indianapolis, 1968-75; advisory board, U.S. Conference on Mayors, 1969-75; Fiorello LaGuardia Award, 1975; U.S. Senate, 1977- .

Committee on Agriculture, Nutrition and Forestry, Subcommittee on Agricultural Production, Marketing and Stabilization of Prices, Subcommittee on Agricultural Research and General Legislation, Subcommittee on Foreign Agricultural Policy; Committee on Banking, Housing and Urban Affairs, Subcommittee on Housing and Urban Affairs, Subcommittee on Production and Stabilization, ranking minority member of Subcommittee on Federal Credit Program; Select Committee on Intelligence, Subcommittee on Charters and Guidelines, Subcommittee on Collection, Production and Quality.

Senator Lugar was known as Richard Nixon's favorite mayor; occasionally supports us; leaning against Panama Canal treaties; a disappointment on natural gas deregulation.

CHARLES McC. MATHIAS (R-Maryland); 2nd term, 1980; born July 24, 1922 in Frederick, Maryland; Episcopalian; married (Ann); two sons; B.A., Havorford College, 1944; Yale University (V-12 program), 1943-44; LL.B., University of Maryland, 1949; U.S. Naval Reserve, WW II; Maryland assistant attorney genral, 1953-54; Frederick city attorney, 1954-59; Maryland House of Delegates, 1958; U.S. House of Representatives, 1961-69; U.S. Senate, 1969- .

Committee on Appropriations, ranking minority member of Subcommittee on District of Columbia, Subcommittee on Foreign Operations, ranking minority member of Subcommittee on HUD-Independent Agencies, Subcommittee on Labor, Health, Education and Welfare, Subcommittee on Transportation; Committee on Government Affairs, Subcommittee on Investigations, ranking minority member of Subcommittee on Governmental Efficiency and the District of

Columbia, Subcommittee on Energy, Nuclear Proliferation and Federal Services; Committee on the Judiciary, Subcommittee on Antitrust and Monopoly, ranking minority member of Subcommittee on Juvenile Delinquency, ranking minority member of Subcommittee on Penitentiaries and Corrections; Select Committee on Intelligence, Subcommittee on Budget Authorization, ranking minority member of Subcommittee on Charters and Guidelines.

Senator Mathias is a liberal Republican; has supported us on several major issues such as water projects and Warnke; was a vigorous opponent of Judge Bell; rumored to be considering changing to Democratic party, but most people discount this possibility; leaning against natural gas deregulation.

JAMES A. McCLURE, (R-Idaho); 3rd term, 1978; born December 27, 1924 in Payette, Idaho; Methodist; married (Myrtle); three children; LL.B., University of Idaho, 1950; practicing attorney, 1950-66; city attorney, Payette, 1953-66; Idaho Senate, 1960-66, assistant majority leader, 1965-66; U.S. House of Representatives, 1967-73; U.S. Senate, 1973- .

Committee on the Budget; Committee on Energy and Natural Resources, ranking minority member of Subcommittee on Public Lands and Resources, Subcommittee on Parks and Recreation, Subcommittee on Energy Research and Development; Committee on Environment and Public Works, Subcommittee on Water Resources, Subcommittee on Resource Protection, ranking minority member of Subcommittee on Nuclear Regulation; Joint Economic Committee, ranking minority member of Subcommittee on Fiscal and Intergovernmental Policy, ranking minority member of Subcommittee on Energy.

Very conservative; has been a strong opponent of ours on major issues such as water projects and energy; very informed on energy matters; no viable candidate in Idaho has surfaced to oppose him next year.

JAMES B. PEARSON (R-Kansas); 3rd term, 1978; born May 7, 1920 in Nashville, Tennessee; married (Martha); four children; LL.B., University of Virginia Law School, 1950; Duke University, 1940-42; U.S. Navy, 1943-46; practicing attorney, 1950-62; State Senate, 1956-60; State Republican Chairman, 1960-61; U.S. Senate, 1962- .

Ranking minority member of Committee on Commerce, Science and Transportation; Committee on Foreign Relations, Subcommittee on Foreign Economic Policy, ranking minority member of Subcommittee on East Asian and Pacific Affairs, ranking minority member on African Affairs; Select Committee on Intelligence, Ad Hoc Working Group on Secrecy and Disclosures.

Moderate to liberal; supported us on Warnke and several other important issues; proponent of natural gas deregulation; leading skeptic about Tucker nomination in Commerce Committee.

CHARLES H. PERCY (R-Illinois); 2nd term, 1978; born September 27, 1919 in Pensacola, Florida; married (Loraine); three children by 1st wife (deceased) and two children by 2nd wife; B.A., University of Chicago, 1941; U.S. Navy, 1943-45; Bell & Howell, president (1949-61), chief executive officer (1961-63), chairman of the board (1961-66); Republican Party Platform Committee, 1960; trustee, California Institute of Technology, 1961-67; Republican candidate for Governor, 1964; U.S. Jaycees outstanding young man, 1949; U.N. General Assembly, 1974; U.S. Senate, 1967- .

Committee on Foreign Relations ranking minority member of Subcommittee on Arms Control, Oceans and International Environment, Subcommittee on Foreign Assistance, ranking minority member of Subcommittee on International Operations, ranking minority member of Subcommittee on Governmental Affairs, ranking minority member of Subcommittee on Permanent Subcommittee on Investigations, Subcommittee on Intergovernmental Relations, Subcommittee on Reports, Accounting and Management; ranking minority member of Select Committee on Nutrition and Human Needs; Special Committee on Aging.

WILLIAM V. ROTH (R-Delaware); 2nd term, 1982; born July 22, 1921 in Great Falls, Montana; Episcopalian; married (Jane); two children; B.A., University of Oregon; M.B.A., Harvard Business School; LL.B., Harvard Law School; U.S. Army, 1943-46; member, Delaware and California Bars; Chairman, Delaware Republican State Committee, 1961-64; Republican National Committee, 1961-64; U.S. House of Representatives, 1967-71; U.S. Senate, 1971- .

Committee on Finance, ranking minority member of Subcommittee on International Trade, Subcommittee on Taxation and Debt Management, ranking minority member of Subcommittee on Unemployment Compensation, Revenue Sharing and Economic Problems; Committee on Governmental Affairs, Subcommittee on Investigations, ranking minority member of Subcommittee on Intergovernmental Relations, Subcommittee on Federal Spending Practices and Open Government; Joint Economic Committee, Subcommittee on Economic Growth and Stabilization, ranking minority member of Subcommittee on International Economics.

Leaning against the Panama Canal treaties, but may be able to be swayed; opposed to natural gas deregulation, energy plan and all tax proposals.

TED STEVENS (R-Alaska); 2nd term, 1978; born November 18, 1923 in Indianapolis, Indiana; married (Ann); five children; B.A., UCLA, 1947; LL.B., Harvard Law School, 1950; Air Force, 1943-46; practicing attorney, 1950-52, 1961-68; U.S. Attorney, Fairbanks, 1953-56; U.S. Department of Interior, legislative counsel (1956-58), Assistant to the Secretary, 1958-60, solicitor, 1960; Alaska House of Representatives, 1964-68; U.S. Senate, 1971- , minority whip, 1977.

Committee on Appropriations, Subcommittee on Agriculture and Related Agencies, Subcommittee on Defense, ranking minority member of Subcommittee on Interior, ranking minority member of Subcommittee on Military Construction, Subcommittee on State, Justice, Commerce, the Judiciary; Committee on Commerce, Science and Transportation, ranking minority member of Subcommittee on

Aviation, Subcommittee on Communications, Subcommittee on Merchant Marine and Tourism; Committee on Governmental Affairs, Subcommittee on Governmental Efficiency and the District of Columbia, ranking minority member of Subcommittee on Civil Service and General Services, Subcommittee on Energy, Nuclear Proliferation and Federal Services.

Conservative to moderate; almost always follows Baker's lead; becoming more respected each day by member of each party.

file
part of bulking
paper for 800 Am
brought

Talking Points for Breakfast with Congressional Leadership
on the September 21 Conference on the FY 1978
Foreign Assistance Appropriations Bill

- Amendments to the FY 1978 foreign aid bill, as passed by the House, would proscribe the use of U.S. funds "directly or indirectly" for aid to seven countries (Vietnam, Laos, Cambodia, Uganda, Angola, Mozambique and Cuba) and for production of three commodities (palm oil, sugar and citrus).
- I am deeply concerned about these earmarking provisions.
- If such provisions were to become law the international development banks would have to refuse U.S. contributions.
- As most of you know, World Bank President McNamara has already indicated this in a letter he wrote to Secretary Blumenthal in July.
- In that letter Mr. McNamara indicated that the World Bank, IDA and IFC could not legally accept our earmarked contributions.
- I believe that similar conditions obtain in the regional banks as well.
- None of the development banks have ever accepted contributions which are conditioned in this manner.
- Although I am sure you realize the seriousness of this matter, I would like to point out just a few of the things that would happen if this situation came to pass.

- U.S. participation in these banks would for all intents and purposes be terminated since it would be impossible for us to contribute our share to the on-going activities of the banks.
- The resulting failure by the U.S. to make its agreed contributions would, in turn, severely disrupt the economies of many poor countries; jeopardize U.S. relations with the entire developing world; and cause acute problems with our allies, many of whom have already made their contributions.
- The IDA V replenishment would collapse.
- The current replenishments of both the IDB and ADB would collapse and both would run out of money by the end of this year or early next year.

-- I cannot emphasize enough the importance I attach to preventing the House position on these issues from being adopted by the Conference.

THE WORLD BANK
Washington, D.C. 20433
USA.

Office of the President

July 5, 1977

The Honorable
W. Michael Blumenthal
Secretary of the Treasury
Washington, D. C.

Dear Mr. Secretary:

President Carter, by letter dated June 21, 1977, wrote to Congressman Thomas P. O'Neill, Speaker of the House of Representatives, regarding the pending appropriations bill for the international development institutions; in that letter he stated that specifying in the bill that United States funds could not be used for loans to certain countries would in all probability make it impossible for these institutions to accept the United States funds. After determination by the World Bank's legal counsel, I write to comment on President Carter's statement and on several related matters.

As you know, there is now pending before the Congress both authorizing and appropriations legislation covering the commitment by the United States to the Fifth Replenishment of IDA and the subscriptions by the United States to the capital stock of the Bank and International Finance Corporation. I would like to refer, in particular, to Sections 107 and 509 of the House Foreign Aid Appropriations Bill (H.R. 7797); as I understand it, if these provisions become law the United States would have to condition its commitment and its subscriptions on a requirement that these funds not be used to finance loans to certain countries or for certain agricultural commodities. The question arises, therefore, whether IDA could accept a United States commitment to the Fifth Replenishment and the Bank and IFC could accept United States subscriptions to their capital stock if they were made subject to such conditions or others of similar effect.

The answer is that IDA, the Bank and IFC could not accept the funds, so conditioned, for the following reasons.

As far as the Fifth Replenishment to IDA is concerned, it will be recalled that the agreement on the terms of the Fifth Replenishment provides for a total replenishment of the equivalent of \$7.637 billion to be contributed by 26 donor countries of which the United States share would be \$2.4 billion. The Replenishment cannot become effective until donor countries formally commit themselves to make contributions totalling at least \$6 billion (part of which can be made subject to appropriations)

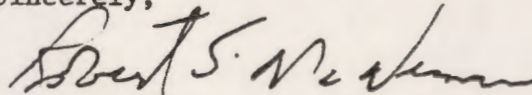
July 5, 1977

and consequently the contributions of other donor countries are not payable unless the United States also formally commits itself to make its contribution. The Fifth Replenishment agreement does not permit any donor country to make its contribution subject to a condition that the funds cannot be used for loans to certain countries or for certain agricultural commodities. Thus, if the United States is obliged so to condition the use of its funds, the Fifth Replenishment agreement cannot become effective. The effect of this would be that IDA would not be able to continue operations since IDA's resources were fully committed by June 30th. IDA is the prime institution for development assistance to the very poor and I know that I need not point out to you the serious effect a cessation of IDA's activities would have on the developing countries.

As far as United States subscriptions to Bank and IFC capital stock are concerned, while the technical problems involved are different than in the case of the Fifth Replenishment to IDA, the conclusion is the same. Any subscription which is made subject to the conditions referred to above would not be consistent with the terms on which subscriptions can be made or with the obligations of shareholders to the Bank under the Articles of Agreement and would therefore not be acceptable. The use of funds paid by shareholders for their stock cannot be conditioned in that way and, similarly, no condition can be imposed which would restrict the power of the Bank to make calls on the callable portion of Bank stock so as to enable the Bank, if necessary, to make payment on its borrowings or guarantees.

In summary, I believe that the restrictive conditions now being considered by the United States Congress would, if enacted, result in most grave consequences to the future of the World Bank Group.

Sincerely,



Robert S. McNamara

(3)

MEMORANDUM OF INFORMATION FOR THE FILE

DATE September 21, 1977

EXECUTIVE

FEB-11
PAB-2

~~LETTER, MEMO, ETC.~~

Handwritten Note

TO: The President
FROM: Sam^A Hayakawa^A
SUBJECT: Bert Lance

Bert Lance



CORRESPONDENCE FILED

PRESIDENTIAL
HANDWRITING FILE

RECEIVED
SEP 28 1977
FBI FILE

THE PRESIDENT HAS SEEN.

C/

Dear Mr. President:

Hang on to Bert
Lance! I'll back
you up, if that will
do any good.

Sam Hayakawa

Electrostatic Copy Made
for Preservation Purposes